

102 BIDDING REQUIREMENTS

GOVERNMENT OF THE DISTRICT OF COLUMBIA STANDARD CONTRACT PROVISIONS FOR USE WITH SPECIFICATIONS FOR DISTRICT OF COLUMBIA GOVERNMENT CONSTRUCTION PROJECTS 1973, as amended

102.01 INSTRUCTIONS TO BIDDERS (Construction)

ARTICLE 1. QUALIFICATIONS OF BIDDERS - Bidders shall have the capability to perform classes of work contemplated, have the necessary plant and sufficient capital to execute the work properly within specified time.

Any Bidder who has not performed comparable work for the District within the last 5 years shall submit, at the Contracting Officer's discretion, a certified statement of his organization, plant, manpower, financial resources, and construction experience that he considers will qualify him for proposed contract. This information shall be certified by a Certified Public Accountant for contracts over \$25,000 and submitted on the AGC Form "Standard Questionnaire and Financial Statement for Bidders", obtainable from the Associated General Contractors of America, Inc., at 1957 "E" Street, N.W., Washington, D.C., 20006, or on an approved equivalent form. This requirement is not needed if the bidder has submitted such a statement to the District within a year prior to bid opening date, but will be required if bidder has previously submitted such a statement under one company name or organization or joint venture and is now bidding under another company name or organization or joint venture. A certified statement of prequalification approval by another jurisdiction may be considered as an alternative to foregoing procedure. A bidder shall submit a supplemental statement if requested by the District.

ARTICLE 2. BID DOCUMENTS - The Specifications (including all documents referenced therein and all documents attached thereto), drawings, and addenda which form the basis of any bid shall be considered as part thereof and will form part of the bid. Copies of these documents will be furnished to or made available for the inspection of prospective bidders by that office indicated in the advertisement or invitation.

ARTICLE 3. EXAMINATION OF BID DOCUMENTS AND SITE OF WORK - Each Bidder shall carefully examine the site of the proposed work and the bid documents and fully acquaint himself with conditions relating to construction and labor so that he may fully understand the facilities, difficulties, and restrictions attending the execution of the work under the bid documents, and he shall judge for and satisfy himself as to conditions to be encountered affecting the character, quality and quantity of the work to be performed and materials to be furnished and to the requirements of the bid documents. Failure to do so will be at the Bidder's own risk and shall not relieve him from any obligation under his bid or contract.

ARTICLE 4. PREPARATION FOR BIDS - The bid form furnished in the bid proposal and specifications shall be used in strict compliance with the requirements of the Invitation and Supplemental Instructions to Bidders in the specifications. Special care shall be exercised in the preparation of bids. Bidders must make their own estimates of the facilities and difficulties to be anticipated upon execution of the contract, including local conditions, uncertainty of weather and all other contingencies. All designations and prices shall be fully and clearly set forth in the bid submission. ALL PRICES SHALL BE INSERTED IN FIGURES TYPED OR PRINTED LEGIBLY ON THE BID FORM. All corrections on the bid documents must be initialed by the

person signing the form.

ARTICLE 5. ERROR IN BIDS - Bidders or their authorized agents are expected to examine all bid documents and any addenda thereto, and all other instructions pertaining to the work which will be open to their inspection. Failure to do so will be at the bidder's own risk, and will not constitute reason for relief on plea of error in the bid. IN CASE OF ERROR IN THE EXTENSION OF PRICES IN THE BID, UNIT PRICES WILL GOVERN.

The bidder must submit his plea of error in writing to the Contracting Officer and must be prepared to document and prove his error.

ARTICLE 6. LABOR AND MATERIAL NOT FURNISHED BY DISTRICT - The District will not furnish any labor, material, or supplies unless a provision to do so is included in the contract documents.

ARTICLE 7. ADDENDA AND INTERPRETATIONS - No oral interpretations of the meaning of the drawings, specifications, or other bid documents will be made to any bidder. Verbal clarification will not be binding on the District. All requests must be in writing and addressed to the Contracting Officer responsible for administering the contract. Requests for interpretations of bid documents must be received by the Contracting Officer not later than 10 days prior to bid opening date. All changes to the bid documents will be made by addenda mailed to all prospective bidders, who have obtained copies of the bid documents, not later than 7 days before bid opening date. In case of discrepancy among addenda, a later dated addendum has priority over earlier dated addenda. It shall be the bidder's responsibility to make inquiry as to any or all addenda issued, and failure of any prospective bidder to receive any such addenda issued by the Contracting Officer shall not relieve the bidder from any obligation under his bid as submitted. Bidder must acknowledge receipt of all addenda on the Bid Form; failure to do so may result in rejection of bid. All addenda issued shall become part of the bid and contract documents.

ARTICLE 8. ALTERNATE BIDS - Alternate bids will not be considered unless called for in the Bid Form.

ARTICLE 9. BIDS FOR ALL OR PART - Where bids are not qualified by specific limitations, the District reserves the right to award all or any of the items according to its best interests.

ARTICLE 10. PRICE SCHEDULE INTERPRETATION - Quantities appearing in the Price Schedule are approximate only and are prepared for the comparison of bids. Payment will be made only for actual material requirements accepted and for work performed and accepted. Schedule quantities may be increased, decreased, or omitted and there shall be no adjustment in contract unit prices except as provided, and except for such materials actually purchased or work actually performed prior to notification of the change in items affected.

The price of any item, unless otherwise specified shall include full compensation for all materials, tests, samples, manufacturers' guaranties, tools, equipment, labor, and incidental work needed to complete specified items. Prices without exception shall be net, not subject to discount, and shall include all royalties and costs arising from patents, proprietary items, trademarks, and copyrights.

ARTICLE 11. CORRECTIONS - Erasures and other changes in bids must be explained or noted over the signature of the bidder.

ARTICLE 12. BOND REQUIREMENTS

A. BID GUARANTY - On all bids of \$25,000 or more, security is required to insure the execution of the contract. No bid will be considered unless it is so guaranteed. Each bidder must furnish with his bid either a

bid Bond (Form No. DC 2640-5), with good and sufficient sureties, a certified check payable to the order of the Treasurer of the District of Columbia (uncertified check will not be accepted), or negotiable United States bonds (at par value), in an amount not less than five percent (5) of the amount of his bid as a guaranty that he will not withdraw said bid within the period specified therein after the opening of the same; or, if no period be specified, within sixty (60) days after said opening, and will, within the period specified therefor, or, if no period be specified, within ten (10) days, after the prescribed forms are forwarded to him for execution (or within any extension of time which may be granted by the officer to whom the bid was addressed) execute and deliver a written contract on the standard District form in accordance with the bid as accepted and give bond with good and sufficient sureties, as specified below for the faithful performance and proper fulfillment of such contract and payment of laborers and material men as required by law or, in the event of the withdrawal of said bid within the period above stated, of the failure to enter into such contract and give such bond within the time above stated, that he will pay to the District the difference between the amount specified in said bid and the amount for which the District may procure the required work, if the latter amount be in excess of the former.

Certified checks and United States bonds will be retained from the apparent first, second and third low bidders. All other bidders who have tendered monetary guarantees shall have deposits returned by Certified Mail. Certified checks and United States bonds will be returned to the second and third low bidders after award of contract and to successful bidders after the signing of prescribed forms of contract and bond. Guaranty bonds will be returned only upon written application.

B. PERFORMANCE BOND - For any construction contract exceeding \$25,000 in amount, a Performance Bond (Form No. DC 2640-7) shall be required in a penal amount equal to one hundred percent (100%) of the contract price at time of award.

Additional performance bond protection shall be required in connection with any modification effecting an increase in price under any contract for which a bond is required pursuant to the above if:

1. The modification is for new or additional work which is beyond the scope of the existing contract; or,
2. The modification is pursuant to an existing provision of the contract and is expected to increase the contract price by \$50,000 or twenty-five percent (25%) of the original total contract price, whichever is less.

The penal amount of the bond protection shall be increased so that the total performance bond protection is one hundred percent (100%) of the contract price as revised by both the modification requiring such additional protection and the aggregate of any previous modification. The increased penal amount may be secured either by increasing the bond protection provided by existing surety or sureties or by obtaining an additional performance bond from a new surety.

C. PAYMENT BOND - In accordance with the provisions of Section 504(b) of the District of Columbia Procurement Practices Act of 1985, payment bonds shall be required in an amount not less than fifty percent (50%) of the total amount payable by the terms of the contract.

Additional payment protection shall be required in connection with any modification effecting an increase in price under any contract for which a bond is required pursuant to the above if:

1. The modification is for new or additional work which is beyond the scope of the existing contract; or
2. The modification is pursuant to an existing provision of the contract and is expected to increase the contract price by \$50,000 or twenty-five percent (25%) of the original total contract price, whichever is less.

The penal amount of the additional bond protection shall generally be such that the total payment bond protection is fifty percent (50%) of the contract price as revised by both the modification requiring such additional protection, and the aggregate of any previous modification. The additional protection may be secured either by increasing the bond protection provided by the existing surety or sureties or by obtaining an additional payment bond from a new surety.

D. BOND SOURCE - The bonds may be obtained from any surety company authorized by the U.S. Treasury Department as acceptable sureties on Federal Bonds and authorized to transact business in the District of Columbia by the Administrator, Insurance Administration, Department of Consumer and Regulatory Affairs.

It is the intent of Congress to strengthen the competitive free enterprise system by assisting qualified small business concerns to obtain certain bid, payment, or performance bonds that are otherwise not obtainable by authorizing the Small Business Administration to guarantee surety companies up to 90 percent of their losses incurred by reason of breach of certain surety bonds and executed on behalf of such small business concerns on contracts up to \$500,000 in amount. Assistance in applying for this service may be obtained from the Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20005.

ARTICLE 13. SIGNATURE TO BIDS - Each bid must show the full business address of the bidder and be signed by him with his usual signature. Bids by partnerships must be signed with the partnership name by one of the members of the partnership or by an authorized representative, followed by the signature and designation of the person signing. Bids by corporations must be signed with the name of the corporation, followed by the signature and designation of the President or Vice President and attested by the Secretary of the Corporation and the corporate seal affixed thereto. If bid is signed by other than the President or Vice President, evidence of authority to so sign must be furnished in the form of an extract of minutes of a meeting of the Board of Directors or extract of bylaws certified by the Corporate Secretary and corporate seal affixed thereto. The names of all persons signing shall be typed or printed below the signatures. A bid by a person who affixes to his signature the word "President", "Vice President", "Secretary", "Agent", or other designation, without disclosing his principal, may be held personally to the bid. Bids submitted by a joint venture must be signed by all authorized parties to the joint venture.

ARTICLE 14. MARKING AND MAILING BIDS - Bids (from 1973 Standard Contract Provisions), addenda acknowledgement, and bid guaranty must be securely sealed in suitable envelopes, addressed and marked on the outside with the name of the bidder, invitation number, and date of opening.

ARTICLE 15. RECEIVING BIDS, MODIFICATIONS, OR WITHDRAWALS - Bids received prior to the time set for opening will be securely kept unopened. The officer whose duty is to open them will decide when the specified time has arrived and no bid received thereafter will be considered unless: (1) they are sent by registered mail or by certified mail for which an official dated post office stamp (post-mark) on the original Receipt for Certified Mail has been obtained and it is determined by the District that the late receipt was due solely to delay in the mails for which the bidder was not responsible; or (2) if submitted by mail (or by telegram if authorized by the Contracting Officer), it is determined by the District that the late receipt was due solely to mishandling by the District after receipt at the District agency: Provided, that timely receipt at such agency is established upon examination of an appropriate date or time stamp or other documentary evidence or receipt within the control of such agency.

Bidders using certified mail are cautioned to obtain a receipt for certified mail showing legible, dated postmark and to retain such receipt against the chance that it will be required as evidence that a late bid was timely mailed. The only evidence acceptable in this matter is as follows: (1) where the Receipt of Certified

Mail identifies the post office station of mailing, evidence furnished by the bidder which established that the business day of the station ended at an earlier time, in which case of the time of mailing shall be deemed to be last minute of the business day; or (2) an entry in ink on the Receipt for Certified Mail showing the time of mailing and the initials of postal employee receiving the item and making the entry, with appropriate written verification of such entry from the post office station of mailing, in which case the time of mailing shall be the time shown in the entry. If the postmark on the original Receipt for Certified Mail does not show a date, the bid shall not be considered.

The time of mailing of late bids submitted by registered or certified mail shall be deemed to be the last minute of the date shown in the postmark on the registered mail receipt or registered mail wrapper or on the Receipt for Certified Mail unless the bidder furnishes evidence from the post office station of mailing which establishes an earlier time.

No responsibility will attach to the District or any of its officers or employees for the premature opening of a bid not properly addressed and identified. Unless specifically authorized, telegraphic bids will not be considered, but modification by telegram, of bids already submitted will be considered if received prior to the hour set for opening, but should not reveal the amount of the original or revised bid.

ARTICLE 16. WITHDRAWAL OF BIDS - Bids may be withdrawn on written or telegraphic request received from bidders prior to the time fixed for opening, provided the name of the bidder appears on the outside of the envelope containing the bid. Negligence on the part of the bidder in preparing the bid confers no right for the withdrawal of the bid after it has been opened.

ARTICLE 17. OPENING OF BIDS - At the time fixed for the opening of bids, their contents will be made public by the Office of Management Services of the Department of Public Works for the information of bidders and other properly interested persons.

ARTICLE 18. AWARD OR REJECTION - The Contract will be awarded to the lowest responsible bidder complying with conditions of the bid documents, provided his bid is reasonable and it is in the best interest of the District to accept it. The bidder to whom award is made will be notified by the Contracting Officer at the earliest possible date. The District, however, reserves the right to reject any and all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the District.

If more than one bid be offered by any one party, by or in the name of his or their clerk, partner, or other person, all such bids may be rejected. This shall not prevent a bidder from proceeding under Article 8 hereof, nor from quoting different prices on different qualities of materials or different conditions of delivery. A supplier or material man who has quoted prices on materials to a bidder is not thereby disqualified from quoting to other bidders or from submitting a bid directly for the materials or work.

Each bidder shall bid on all items in the Pay Item Schedule and in accordance with the instructions below. Failure to bid on all items will give the District the option to reject the bid.

The Contracting Officer reserves the right to waive any informalities, to reject any or all bids, or to readvertise for bids. Awards, if made, will be to the lowest responsible and qualified bidders whose bids are responsive to the invitation and is most advantageous to the District of Columbia, price and other factors considered.

In addition to requirements for qualification of bidders as set forth in Article 1 hereof, and as determined by the District, proposals will be considered irregular and may be rejected by the Contracting Officer for any

of, but not limited to, the following reasons:

A. Incompetency, inadequate plant, or insufficient capital as revealed by bidder's statement on AGC or equivalent form.

B. Evidence of collusion.

C. Uncompleted work which might hinder or prevent proper and prompt execution and completion of work contemplated.

D. Evidence that bidder has not adequately considered all aspects of contemplated work.

E. Failure to settle bills satisfactorily, claims and judgments due for labor and material on bidder's contracts in force on bid opening date.

F. Default under previous contracts.

G. Unacceptable rating as listed on published government lists.

H. Proposal submission on form other than that form furnished by District, or altered or partially detached form.

I. Unauthorized additions, deletions, omissions, conditional bids, or irregularities, which may make proposal incomplete or ambiguous in meaning.

J. Failure to acknowledge all addenda issued.

K. Failure to submit bid in the properly labeled receptacle in the Bid Room (2nd floor) of the Construction Procurement Support Branch, Office of Management Services, Department of Public Works, 2000 14th Street, N.W., Washington, D.C. 20009, and prior to the time set for opening as governed by the Official Clock designated as such in that Branch; or if bid is mailed, it is received at P.O. Box 43182-9182 by the designated time.

ARTICLE 19. CANCELLATION OF AWARDS - The right is reserved to the District, without any liability upon the District, to cancel the award of any contract at any time prior to approval of a formal written contract signed by the Contractor and the Contracting Officer.

ARTICLE 20. CONTRACT AND BOND - The bidder to whom award is made must, when required, enter into a written contract on the standard District form, with satisfactory security in the amount required (see Article 12) within the period specified, or if no period be specified, within 10 days after the prescribed forms are presented to him for signature.

102.02 PROPOSAL FORMS

The District will furnish each bidder a proposal form which will state the estimated quantity for each and every item upon which a bid is required, a description of the work to be done, the time in which the work must be completed, and the date, place, and time proposals will be opened. It will also state any Special Provision, Supplemental Specifications or requirements which vary from, or are not contained in, the Standard Specifications.

The Standard Contract Provisions For Use With Specifications For District of Columbia Government Construction Projects, 1973, as amended, shall take precedence over the other provisions of these specifications in case of conflict. The standard forms for Bid Bond, Performance and Payment Bond, Contract and other forms may be obtained upon application.

102.03 RESERVED

102.04 AFFIRMATIVE ACTION PROGRAM

Submission by the Contractor and all subcontractors of an Affirmative Action Plan in compliance with Mayor's Order 85-85 is required. This Affirmative Action Plan must be received by the Contracting Officer, within five (5) working days subsequent to the bid opening. Failure to comply in a timely manner may render a bid non-responsive. Contract award is conditioned on the approval of the Affirmative Action Program. The goals for minority and female participation are as follows:

(1) The goal for minority participation expressed in percentage terms for the Contractor's workforce in each trade on all construction work in the covered area is forty-two percent (42%) or such other percentage specified in the Specifications and Bid Forms by the Contracting Officer.

(2) The goal of 6.9%, or such other percentage specified in the Specifications and Bid Forms by the Contracting Officer, for female participation is applicable to the Contractor's aggregate on-site construction workforce. This goal is applicable whether or not part of that workforce is performing work on a Federal or federally-assisted construction contract or subcontract.

These goals are applicable to all the Contractor's work (whether or not it is Federal or federally-assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, he or she shall apply to goals established for such geographical area where the work is subject to the goals for both its federally involved and non-federally involved construction.

Each bidder should submit a certificate with the bids, signed by an official of the company that he or she is aware of the aforementioned orders and that he or she will comply with them in the performance of the contract.

102.05 NON-COLLUSION

Every bid submitted shall contain an affidavit signed by an official of the company submitting the bid that said company has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the proposed contract.

102.06 ANTI-DISCRIMINATION CLAUSE

The Contractor: (1) shall not discriminate in any manner against any employee or applicant for employment in violation of Section 211 of the District of Columbia Human Rights Act (D.C. Law 2-38; D.C. Code Anno. Section 1-2512); (2) shall include a similar clause in every subcontract, except subcontracts for standard commercial supplies or raw materials; and (3) shall, along with all subcontractors, post in a conspicuous place, available to employees and applicants for employment, a notice setting forth the provisions of the non-discrimination clause set out in Section 251 of the District of Columbia Human Rights Act (D.C. Code Anno. Section 1-2522).

102.07 EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

When required in the Special Provisions the bidder shall submit a certification with his or her bid that he or she has or has not participated in a contract or subcontract subject to in substance either the equal opportunity provisions of 103.02(E) or Section 202 of Executive Order 11246 of 3 CFR; that he or she has or has not filed all required compliance reports under any such contract or subcontract; and that representation indicating submission of required compliance reports signed by proposed subcontractors will be obtained prior to subcontract awards.

102.08 NONSEGREGATED FACILITIES CERTIFICATION

When required in the Special Provisions the bidder shall submit a certification with his or her bid that he or she does not and will not maintain or provide for his or her employees any segregated facility at any of his or her establishments; that he or she does not and will not permit his or her employees to perform their services at any location under his or her control where segregated facilities are maintained; and that he or she will obtain and retain identical certifications from proposed subcontractors prior to award of subcontracts exceeding \$10,000.00.

"Segregated facilities" shall mean any waiting room, work area, wash and rest room, eating area, time clock, locker room and other storage or dressing area, parking lot, drinking fountain, recreation or entertainment area, transportation and housing facility, provided for employees which is segregated by explicit directive or is segregated on the basis of race, creed, color, or national origin, because of habit, local custom or otherwise.

Penalty for violations or making false statements is prescribed in 18 USC 1001.

102.09 RESERVED

102.10 EMPLOYMENT OF THE HANDICAPPED

Pursuant to the Rehabilitation Act of 1973 (for Federal and federally-assisted projects) and DC Human Rights Act of 1977 for District of Columbia-funded projects, the Contractor and all subcontractors agree not to discriminate against any handicapped person who is qualified to perform the job. The Contractor also agrees to take Affirmative Action to hire, advance, and treat handicapped people without discrimination.